

NO. 05-16738

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GILBERT GITHERE,

Plaintiff-Appellant

vs.

CONSOLIDATED AMUSEMENT CORPORATION, INC.;
JOHN TELLIS, General Manager of Consolidated Amusement, Inc.,

Defendants-Appellees

AN APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MOTION FOR ENLARGEMENT OF TIME TO FILE OPENING BRIEF

DECLARATION OF COUNSEL

CERTIFICATE OF SERVICE

ANDRÉ S. WOOTEN 3887
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Attorney for Plaintiff-Appellant

EXHIBIT "B"

NO. 05-16738

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GILBERT GITHERE,)	CIVIL NO. 04-00116 DAE-LEK
)	
Plaintiff-Appellant,)	MOTION FOR ENLARGEMENT OF
)	TIME TO FILE OPENING BRIEF
vs.)	
)	
CONSOLIDATED AMUSEMENT)	
CORPORATION INC.; JOHN)	
TELLIS, General Manager of)	
Consolidated Amusement Inc.,)	
)	
Defendants-Appellees,)	
)	
and)	
)	
ALOHA STADIUM AUTHORITY)	
INC.,)	
)	
Defendant.)	
)	
)	

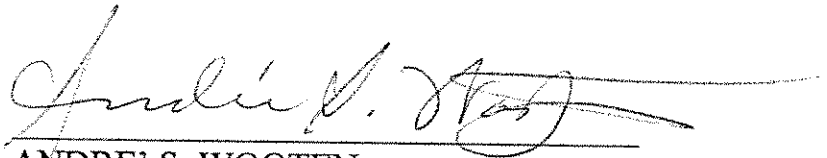
MOTION FOR ENLARGEMENT OF TIME TO FILE OPENING BRIEF

Comes now Plaintiff-Appellant GILBERT GITHERE, by and through his attorney of record, André S. Wooten, who hereby files this Motion for an enlargement to time of 30 days to file the opening brief of the Plaintiff Appellant in

this case as we have not yet receiving the transcript, as the court reporter was out of town last week and also due to the impending Christmas and Holiday Season and family and other case commitments for counsel's time.

This Motion is brought pursuant to Rules 26(b) and 27 of the Federal Rules of Appellate Procedure and is supported by the attached Declaration of Counsel and the records and files of this case.

DATED: Honolulu, Hawaii, December 16, 2005.

A handwritten signature in black ink, appearing to read "Andre' S. Wooten", is written over a horizontal line.

ANDRE' S. WOOTEN
Attorney for Plaintiff-Appellant

NO. 05-16738

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Plaintiff-Appellant

VS.

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Defendants-Appellees

DECLARATION OF COUNSEL

STATE OF HAWAII)
)
) SS
CITY AND COUNTY OF HONOLULU,)

ANDRE' S. WOOTEN, being first duly sworn upon oath and upon penalty of perjury deposes that:

1. The Declarant is the attorney for the Plaintiff in the above entitled matter and is therefore aware of the history of this matter.

2. The we just today received the transcript of the hearing which we ordered back in September, as the court reported did not release them immediately as we expected, stating that the cost was more than the estimate we paid in advance.

3. As we are rapidly approaching the Christmas and New Years Holidays we have travel commitments for family meetings, as well as other case responsibilities and a jury trial set to commence in Federal Court January 4, 2005, for which preparation needs to be performed.


4. Declarant is a solo practitioner with an active primarily civil litigation practice, with no attorney to delegate this work to, who has also had to deal with some recent back problems requiring treatment, which has taken unexpected extra time and basically slows me down.

5. We telephoned opposing counsel Tamara Gerrard today to advise her that we were filing for an enlargement of time to file this brief, as she was not in we left a voice mail message.

6. Mr. Githere is adamant about pursuing his appeal and would be sorely prejudiced if this motion for enlargement due to the busy schedule and need for unforeseen medical treatment for his attorney, were denied.

WHEREFORE, DECLARANT respectfully requests that the court grant the instant motion For Enlargement of the Time for Plaintiff to file his opening brief from December 16, 2005 to January 16, 2006, in the interest of substantial justice for good cause stated above.

FURTHER DECLARANT SAYETH NAUGHT.



ANDRE S. WOOTEN
ATTORNEY FOR PLAINTIFF
GILBERT GITHERE

NO. 05-16738

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Plaintiff-Appellant

vs.

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Defendants-Appellees

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Documents were delivered upon the
following parties at their last known addresses by means of hand delivery on December 19,
2005.

RICHARD M. RAND, ESQ.
TAMARA M. GERRARD, ESQ.
700 Bishop St., 15th Floor
Honolulu, Hawaii 96813

Attorneys for Defendants
CONSOLIDATED AMUSEMENT COMPANY, LTD.
and JOHN TELLIS

DATED: Honolulu, Hawaii, December 16, 2005.


ANDRE' S. WOOTEN
Attorney for Plaintiff-Appellant

Lory,

December 16, 2005

Please send a follow up letter to the Matt Harrell witnesses reminding them of the trial dates on the Subpoenas and asking them to call in and leave a contact phone #.